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U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

McGHEE DUCLOS, CDCR #F-5576,

Plaintiff,

v.

JESUS RAMIREZ, et al.,

Defendants.

CASE NO. 07-CV-1805 W (JMA)

**ORDER ADOPTING REPORT
AND RECOMMENDATION
(DOC. NO. 16) AND GRANTING
DEFENDANTS' MOTION TO
DISMISS (DOC. NO. 11)**

On September 14, 2007, Plaintiff McGhee Duclos, a California prisoner proceeding pro se, filed this civil-rights complaint pursuant to 42 U.S.C. § 1983. The lawsuit arises out of an automobile accident that occurred while Plaintiff was being transported in a state vehicle from the R. J. Donovan Correctional Facility to Alvarado Medical Center.

On July 3, 2008, Defendants filed a Motion to Dismiss the Complaint. Plaintiff did not file an opposition. On February 6, 2009, Magistrate Judge Jan M. Adler issued a Report and Recommendation ("Report"), recommending that the Court grant Defendants' motion to dismiss. The Report also ordered that any objections were to be filed by February 27, 2009, and any reply filed by March 9, 2009. To date, no objection has been filed, nor has there been a request for additional time in which to file an objection.

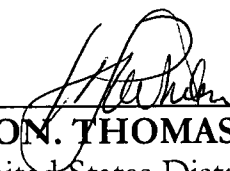
1 A district court's duties concerning a magistrate judge's report and recommendation
2 and a respondent's objections thereto are set forth in Rule 72(b) of the Federal Rules of
3 Civil Procedure and 28 U.S.C. § 636(b)(1). When no objections are filed, the district court
4 is not required to review the magistrate judge's report and recommendation. See United
5 States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003)(holding that 28 U.S.C.
6 636(b)(1)(c) "makes it clear that the district judge must review the magistrate judge's
7 findings and recommendations de novo *if objection is made*, but not otherwise")(emphasis
8 in original); Schmidt v. Johnstone, 263 F. Supp. 2d 1219, 1226 (D. Arizona 2003)
9 (concluding that where no objections were filed, the District Court had no obligation to
10 review the magistrate judge's Report). This rule of law is well established within the Ninth
11 Circuit and this district. See Wang v. Masaitis, 416 F.3d 992, 1000 n. 13 (9th Cir.
12 2005)("Of course, de novo review of a R & R is *only* required when an objection is made
13 to the R & R.")(emphasis added)(citing Reyna-Tapia, 328 F.3d 1121); Nelson v. Giurbino,
14 395 F. Supp. 2d 946, 949 (S.D. Cal. 2005) (Lorenz, J.) (adopted Report without review
15 because neither party filed objections to the Report despite the opportunity to do so,
16 "accordingly, the Court will adopt the Report and Recommendation in its entirety."); see
17 also Nichols v. Logan, 355 F. Supp. 2d 1155, 1157 (S.D. Cal. 2004) (Benitez, J.).

18 The Court therefore accepts Judge Adler's recommendation, and **ADOPTS** the
19 Report in its entirety. For the reasons stated in the Report (Doc. No. 16), which is
20 incorporated herein by reference, the Court **GRANTS** Defendants' motion to dismiss
21 (Doc. No. 11) without prejudice.

22 The Clerk of the Court shall close the district court file.

23 **IT IS SO ORDERED.**

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25 **DATE: March 13, 2009**

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HON. THOMAS J. WHELAN
United States District Court
Southern District of California